

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
NEW ALBANY DIVISION

In re: \_\_\_\_\_ ) Chapter 11  
EASTERN LIVESTOCK CO., LLC, \_\_\_\_\_ ) Case No. 10-93904-BHL-11  
Debtor. \_\_\_\_\_ )

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**TRUSTEE'S OBJECTION TO CLAIMS 367 AND 370 FILED BY GP CATTLE, LLC**

James A. Knauer, the chapter 11 trustee appointed in this case ("Trustee"), pursuant to Rule 3007 of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules"), hereby objects (this "Objection") to claims 367 and 370 (the "Claims")<sup>1</sup> filed by GP Cattle, LLC ("GP Cattle"). The Trustee filed an adversary complaint against GP Cattle and others on December 27, 2012, initiating Adv. Proc. No. 12-59158 (the "Adversary"). The Trustee seeks to disallow the Claims in the Adversary. As a result, the Trustee requests that the Court stay further proceedings on this Objection until further notice from the Trustee or GP Cattle. In support of this Objection, the Trustee respectfully states:

**Jurisdiction**

1. This Court has jurisdiction over this Objection under 28 U.S.C. § 1334.

This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(B). Venue of this proceeding and this Objection is properly in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory bases for the relief requested herein are 11 U.S.C. §§ 502, 506 and 507 and Rules 3001 and 3007 of the Bankruptcy Rules.

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<sup>1</sup> All references herein to the claim number are to the number assigned to the Claim by BMC (see paragraph 5 below) and not to the number, if any, assigned to the Claim by the Court's online claims register. For further explanation, see paragraph 5 below.

### **Background**

3. On December 6, 2010 (the "Petition Date"), an involuntary chapter 11 bankruptcy petition was filed to commence a chapter 11 case (the "Chapter 11 Case") against Eastern Livestock Co., LLC ("Debtor") in the United States Bankruptcy Court for the Southern District of Indiana, New Albany Division (the "Court").

4. On December 27, 2010, the Court entered an order approving the appointment of the Trustee and on December 28, 2010, entered an order for relief.

5. On March 17, 2011, the Court entered an order approving The BMC Group, Inc. ("BMC") as the Trustee's claims and noticing agent in the Chapter 11 Case. Pursuant to that order, BMC was authorized and directed to, among other things, maintain the official claims register ("Claims Register") for all filed proofs of claim in the Chapter 11 Case. A copy of that Claims Register and all filed proofs of claim in the Chapter 11 Case can be viewed at <http://www.bmcgroup.com/restructuring/Claims.aspx?ClientID=271>.

6. The Court entered an order confirming the *Trustee's First Amended Chapter 11 Plan of Liquidation* [Dock. No. 1490] (the "Plan") on December 17, 2012, and the Plan became effective on December 20, 2012. *See* Dock. No. 1675.

7. Pursuant to the Plan, the deadline for claim objections is April 19, 2013.

### **Request for Relief**

8. By this Objection, the Trustee seeks entry of an order disallowing the Claims. However, the Trustee requests that the Court stay further proceedings on this Objection pending notice from the Trustee or GP Cattle.

9. The Claims assert unsecured claims on account of "cattle loss and equities" and "2 loads of cattle delivered (not paid)". The Claims do not attach any

documentation to evidence or substantiate the Claims. The Trustee does not believe that any amounts are owed by Debtor to GP Cattle.

10. In addition, to the extent any of the Claims assert valid and allowable claims, they should be subordinated to the claims of general unsecured creditors pursuant to 11 U.S.C. § 509(c). 11 U.S.C. § 509(c) provides:

The court shall subordinate to the claim of a creditor and for the benefit of such creditor an allowed claim, by way of subrogation under this section, or for reimbursement or contribution, of an entity that is liable with the debtor on, or that has secured, such creditor's claim, until such creditor's claim is paid in full, either through payments under this title or otherwise.

11. Upon information and belief, GP Cattle is a co-debtor with Debtor on obligations to lenders and general unsecured creditors, among others. Because Debtor's unsecured creditors will not be paid in full, the Claims should be subordinated to the claims of those unsecured creditors.

12. Finally, the Claims should be disallowed pursuant to 11 U.S.C. § 502(d).

13. The Trustee seeks to disallow the Claims in the Adversary and therefore requests that the Court stay further proceedings on this Objection pending the outcome of the Adversary.

WHEREFORE, the Trustee objects to the Claims but respectfully requests that the Court stay further proceedings on this Objection until further notice from the Trustee. The Trustee asks for all other just and appropriate relief.

Respectfully submitted,

FAEGRE BAKER DANIELS LLP

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### CERTIFICATE OF SERVICE

I hereby certify that on April 19, 2013, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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I further certify that on April 19, 2013, a copy of the foregoing pleading was mailed by first-class U.S. Mail, postage prepaid and properly addressed, to the following:

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